

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
)	
NANCY J. NETTO,)	
Petitioner,)	
)	
v.)	Civil Action No. 05-10695-RGS
)	
LYNN BISSONNETTE)	
Respondent.)	
)	
_____)	

APPLICATION FOR CERTIFICATE OF APPEALABILITY

Now comes the Petitioner by and through her undersigned counsel in the above-entitled matter and respectfully requests this Court to issue a certificate of appealability (COA) pursuant to 28 U.S.C. § 2253 in her case.

The Petitioner requests a certificate of appealability so that she can appeal the following specific issues to the United States Court of Appeals for the First Circuit:

1. Whether the District Court erroneously dismissed the petition for a writ of habeas corpus because:
 - a. with respect to Ground I of the petition, the Massachusetts Supreme Judicial Court's decision addressing the sufficiency of the evidence was an objectively unreasonable application of Jackson v. Virginia;
 - b. with respect to Ground II of the petition, the ineffective assistance of counsel claims were either not procedurally defaulted or any

procedural default should have been excused under the doctrine of cause and prejudice;

- c. with respect to Ground III of the petition, any procedural default with respect to the fair trial and due process claims should be excused because the failure to consider the claims will result in a fundamental miscarriage of justice;
- d. with respect to Ground IV of the petition, the ineffective assistance of counsel claim was not procedurally defaulted or any procedural default should have been excused under the doctrine of cause and prejudice?

- 2. Whether the District Court should have permitted the Petitioner to conduct discovery pursuant to Rule 6 of the Rules Governing Section 2254 Cases and pursuant to Rule 33, 34, and 36 of the Federal Rules of Civil Procedure because (1) it would have helped the Petitioner to develop the factual basis for Ground III and Ground IV of the petition and (2) it was indispensable to the fair, rounded, development of the material facts of the case?

The reasons for granting the Petitioner's request for the issuance of a Certificate of Appealability are fully set forth in the accompanying memorandum.

NANCY J. NETTO

By her Attorney

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CERTIFICATE OF SERVICE

I hereby certify that this document is being filed through the Electronic Case Filing (ECF) system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF). There are no non-registered participants requiring paper copies.

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